

1 Traci Nichal Turner
2 734 BROWN STREET
3 SANTA ROSA, CA 95404
4 (707) 548-2131
5 Debtor

RECEIVED AND FILED
Filed: July 5, 2007
2007 JUL -5 P 2:18
U.S. BANKRUPTCY COURT
DISTRICT OF NEVADA

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7 UNITED STATES BANKRUPTCY COURT
8 DISTRICT OF NEVADA
9

10 In re:

11 TRACI NICHAL TURNER

12 Debtor.
13

Case No. 06-13358-MKN

Chapter 11

Date: 7/9/07

Time: 1:30pm

14
15 **DEBTOR'S OPPOSITION TO PEOPLE'S CHOICE HOME LOAN'S**

16 **MOTIONS FOR RELIEF FROM AUTOMATIC STAY**

17 Debtor Traci Nichal Turner ("Debtor"), by and through her attorney, Christopher T.
18 Smith, Esq., herein opposes the Motions for Relief from the Automatic Stay filed by Secured
19 Creditor People's Choice Home Loan, Inc. ("People's Choice") on June 15, 2007 with
20 regard to a first and second deed of trust on 1952 Napoleon Drive.

21 Debtor respectfully submits that no cause exists for lifting the stay at this time. People's
22 Choice's claim that its interests are not adequately protected is, at a minimum, premature. The
23 home which secures the deeds of trust is sufficiently insured to protect People's Choice's interest
24 therein. See Exhibit B attached hereto. The truth is People's Choice wants to circumvent the
25 protections provided to debtors under Chapter 11 to allow time to provide for a plan of
26 reorganization and implementation of that plan.
27 ...
28 ...

1 Debtor filed her petition for relief on November 11, 2006. People's Choice filed their
2 motions for relief a mere 45 days later. The very purpose of filing for relief under Chapter 11 is
3 to allow a debtor a reasonable amount of time within which to reorganize their financial affairs
4 and implement a plan of reorganization. In the present matter, Debtor has indicated to the United
5 States Trustee she will be filing her plan of reorganization by February 1, 2007. This is only 80
6 days after she filed her petition for relief.

7 It should be noted that lifting the stay with regard to the deeds of trust on the Napoleon
8 property will create a significant hardship upon Debtor and severely diminish the opportunity for
9 success of her plan for reorganization. In a nutshell, Debtor has established a business whereby
10 she will provide 24-hour assisted living to elderly and disabled persons who will rent space in
11 one of two homes she owns. One of those homes is the Napoleon property and it plays an
12 essential role in the plan for reorganization.

13 To lift the stay prematurely would also set a precedent for other creditors to seek similar
14 relief. Such a circumstance will result in otherwise unnecessary and expensive litigation and
15 very likely destroy any prospects for a successful outcome for the Debtor. It will also guarantee
16 that Debtor's unsecured creditors receive nothing since Debtor would likely have to seek
17 liquidation under Chapter 7. Once again, this would be contrary to the purpose and intent of the
18 bankruptcy process.

19 Should the court be inclined to grant the motions for relief, Debtor requests any lifting of
20 the stay be postponed until October 1, 2007 so as to allow her an opportunity to file her plan for
21 reorganization and implement it fully. If Debtor's plan is successful, she will be able to begin
22 payments on her debts, including the deeds of trust held by People's Choice. If she is
23 unsuccessful, People's Choice may seek execution of the deeds of trust without significant
24 prejudice to its interests.

25 Finally, People's Choice's request for an award of attorney fees and costs should be
26 denied. Their motions for relief were filed prematurely with full knowledge of Debtor's
27 intention to file a plan of reorganization by February 1, 2007. See Exhibit C attached hereto.
28 The attached letter to People's Choice from Debtor's attorney clearly indicated Debtor's
intentions. The only response from People's Choice was their filing of the motions for relief.

1 Based upon the foregoing, movant requests that the Court deny People's Choice's
2 motions for relief from the automatic stay. Loan sold 7/1/07 - Popular Mortgage Servicing
3 DATED July 5, 2007 EXHIBIT D & EXHIBIT E

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5 By: Traci Nichal Turner

6 Traci Nichal Turner
7 734 Brown Street
8 Santa Rosa, CA 95404
9 Debtor
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21 ~~Case 06-13358-mkn Doc 68 Entered 07/06/07 16:10:51 Page 3 of 8~~
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SECTION 362 INFORMATION SHEET

DEBTOR: Traci Nichal Turner BANKRUPTCY NO.: 06-13358 MOTION NO.: _____MOVANT: People's Choice Home Loan, Inc. CHAPTER 11PROPERTY INVOLVED IN THIS MOTION: 1952 Napoleon Dr., Las Vegas, NV 89156NOTICE SERVED ON: Debtor(s) X Debtor's Counsel X Trustee XDATE OF SERVICE: July 5, 07

<p><u>MOVING PARTY'S CONTENTIONS:</u></p> <p>The extent and priority of liens:</p> <p>1st: 2nd: 3rd: 4th: Other: Total Encumbrances: Appraisal or Opinion as to Value:</p>	<p><u>DEBTOR'S CONTENTIONS:</u></p> <p>The extent and priority of liens:</p> <p>1st: \$533,275.75 2nd: \$136,588.24 3rd: 4th: Other: Total Encumbrances: \$669,863.99 Appraisal or Opinion as to Value: \$610,000.00</p>
<p><u>TERMS OF MOVANT'S CONTRACT WITH THE DEBTOR:</u></p> <p>Amount of Note: Interest Rate: Duration: Payment per month: Date of Default: Amount of Arrears: Date of Notice of Default: Special Circumstances: Submitted By: Signature:</p>	<p><u>OFFER OF "ADEQUATE PROTECTION" FOR MOVANT:</u></p> <p>Property is insured so as to protect creditor's investment. Property is essential in Debtor's plan of reorganization. Debtor expects to have new business operational and producing sufficient income to make debt payments by October 1, 2007.</p> <p>Special Circumstances: Submitted By: <u>Traci</u> Signature: <u>Traci N Turner</u> <u>Debtor</u></p>

EXHIBIT A



People's Choice Home Loan, Inc.
P.O. Box 52678
Irvine, CA 92619

June 26, 2007

Traci N Turner
853 Ashford Way
Henderson NV 89015-2400

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|||||

RE:0010261092

Real Property Located at: 1952 Napoleon Drive
Las Vegas NV 89156

Dear Traci N Turner :

People's Choice Home Loan, Inc. does hereby notify you that the servicing of your loan, that is, the right to collect payments from you, has been assigned, sold, or transferred from People's Choice Home Loan, Inc. to POPULAR MORTGAGE SERVICING, INC. (PMSI) effective 07/01/2007. The last day People's Choice Home Loan will accept payments is 06/30/2007. Beginning 07/01/2007, send payments directly to PMSI. If People's Choice Home Loan receives a payment after 06/30/2007, the payment will be forwarded to PMSI.

If you currently have ACH drafting with People's Choice Home Loan, Inc., please be advised that your ACH drafting will be cancelled as of the transfer date.

In case you have more than one loan with People's Choice Home Loan, Inc., this notice applies to the loan number listed above ONLY.

If you have any questions relating to the transfer of the servicing from People's Choice Home Loan, Inc., please contact People's Choice Home Loan, Inc. Customer Service Department at:

People's Choice Home Loan, Inc.
P.O. Box 52678
Irvine, Ca. 92619

Toll Free Number: 1-866-858-7877 8:00 A.M.-5:00 P.M.
Monday through Friday (PST)

YOU MAY ALSO CONTACT YOUR NEW SERVICER AT:

CORRESPONDENCE:

POPULAR MORTGAGE SERVICING, INC.
ATTN: CLIENT SERVICES RESEARCH
121 WOODCREST ROAD
CHERRY HILL, NJ 08003

PAYMENTS:

POPULAR MORTGAGE SERVICING, INC.
ATTN: PAYMENT PROCESSING
121 WOODCREST ROAD
CHERRY HILL, NJ 08003

Or call 1-800-273-3973 from 8:00 AM to 12:00 AM (EST) Monday - Friday,
and Saturday 9:00 AM to 3:00 PM (EST)

EXHIBIT D

You should also be aware of the following information, which is referred to in more details in Section 6 of the Real Estate Settlement Procedures Act (RESPA) (12 USC 2605).

During the 60 day period following the effective date of the transfer of the loan servicing, a loan payment received by your old servicer before its due date may not be treated by the new servicer as late, and a late fee may not be imposed on you.

Section 6 of (RESPA) (12 USC 2605) gives you certain rights. If you send a qualified written request to your loan servicer concerning the servicing of your loan, your servicer must provide you with a written acknowledgement within 20 Business Days of receipt of your request. A "qualified written request" is a correspondence, other than notice on a payment coupon or other payment medium supplied by the servicer, which includes your name and account number, and the reason for the request. Not later than 60 Business Days after receiving your request, your servicer must make any appropriate corrections to your account, and must provide you with a written clarification regarding any dispute.

During the 60-day business period, your servicer may not provide information to a consumer reporting agency concerning any over due payment related to such period or qualified written request. However, this does not prevent the servicer from initiating foreclosure if proper grounds exist under mortgage documents.

A Business Day is a day on which the offices of the business entity are open to the public for carrying on substantially all of its business functions.

Section 6 of RESPA also provides for damages and costs for individuals or classes of individuals in circumstances where servicers are shown to have violated the requirements of that section. You should seek legal advice if you believe your rights have been violated.

It has been a pleasure to service your account. If you should have any questions regarding this transfer, please call us TOLL FREE at 866-858-7877.

People's Choice Home Loan, Inc.



June 26, 2007

Traci N Turner
853 Ashford Way
Henderson NV 89015-2400

333

|||||

RE:0010256403

Real Property Located at: 1952 Napoleon Drive
Las Vegas NV 89156

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People's Choice Home Loan, Inc.